REMARKS

Applicants are in receipt of the Office Action mailed October 23, 2006, entirely in the nature of restriction and election requirements purportedly on the basis of lack of unity of invention under PCT Rules 13.1 and 13.2. Applicants reply below.

First, however, applicants respectfully request the PTO to acknowledge the receipt of applicants' papers filed under Section 119.

Restriction has been required among what the PTO deems to be four (4) patentably distinct inventions which are said to not form a single general inventive concept under PCT Rule 13.1. As applicants are required to make an election even though the requirement is traversed, applicants hereby respectfully and provisionally elect Group I directed to a method for stabilizing a protein solution formulation or solution, and presently comprising claims 1-8, 11, 12 and 18, with traverse and without prejudice.

First, as regards applicants' traversal of the requirement, applicants believe and submit that Group IV is the same as Group I. Claim 17 relates to a method for stabilization of a protein, just as do the claims of Group I. Claim 16 recites basically the same subject matter using somewhat different language, it being noted that "suppressing the formation of associated matter in a protein solution formulation" as recited in the preamble of claim 16 is not fundamentally different from stabilizing such a

formulation as per the Group I claims. Therefore, the requirement should certainly be withdrawn as between Groups I and IV.

In general, and with respect, the Office Action gives no evidence that no special technical feature exists which unites the differently categorized groups of claims. If any such prior art exists, it should be brought to applicants' attention. In the absence of any such prior art, the claims share the special technical feature of the protein solution formulation being stored under magnetic field lines as is recited in all of claim 1-18.

Accordingly, withdrawal of the requirement is in order and is respectfully requested.

An election of species has also been required. In this regard applicants hereby respectfully and provisionally elect, with traverse and without prejudice, a cytokine as the physiologically active protein, same being generic to a hematopoietic factor. To be more specific, applicants elect most specifically a hematopoietic factor type of cytokine.

The claims which read on this subject matter are claims 1-5 and 8-18.

Applicants traverse this requirement on the same basis as expressed above relative to the restriction requirement. Applicants' invention is a generic invention, and the election of species requirement does not conform with the rules which are required to be applied in a U.S. National Phase PCT application, namely PCT Rules 13.1 and 13.2. The special technical feature which unites the species is recited in the generic claims.

Withdrawal of the election of species requirement is also respectfully requested.
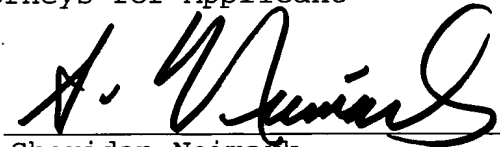
Applicants further note for the record that the PTO has not demonstrated any separate classification, and therefore has not met the requirements of the second paragraph of MPEP 803. Thus, even if the PCT rules did not apply in this case, which of course they do, and normal restriction and election of species practice did apply, the second paragraph of MPEP 803 would **require** a search and examination of plural inventions because it would not constitute a "serious burden" to do so.

Applicants now respectfully await the results of an examination on the merits.

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Respectfully submitted,

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